



**CHEATHAM COUNTY PLANNING COMMISSION
MINUTES FOR OCTOBER 4, 2012**

Meeting was called to order at 6:00 p.m. by Chairman Mark Jarrell.

Chairman Jarrell called for the roll to be taken and called the roll.

Members Present: Chester Hannah, John F. Werne III, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen and Tonnie Trotter

Members Absent: Bobby Hackett and Perry Keenan

Chairman Jarrell declared a quorum present.

Others Present: Cheatham County Attorney Alan Johnson, Cheatham County Building Director Chris Atkins, Cheatham County Planner Brett Smith, William Odom, April Odom, Don Hyde, Keith Davidson, Susan Tvaroch, Charlene Boyd Notgrass, Ray Notgrass, Bert Bomas, Nora Hilton and Connie Werne

Approval of Minutes and Agenda:

****Motion** made by Mr. Cullen to approve the Minutes for the August 2, 2012 Planning Commission meeting as presented and circulated; second by Mr. Hamiter. Roll Call Vote Taken. Voting Yes – Chester Hannah, John F. Werne III, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen and Tonnie Trotter; Voting No – None; Absent – Bobby Hackett and Perry Keenan. Motion Passed; August 2, 2012 Planning Commission Meeting Minutes Approved as Presented and Circulated.**

Chairman Jarrell stated that the agenda for this meeting has been presented and circulated and asked if there were any changes. Mr. Werne asked that discussion of accessibility requirements to public roadways for buildable parcels be added to the Other Business portion of the meeting. ****Motion** made by Mr. Hannah to approve the Agenda for Tonight's Meeting as Presented and Circulated with the Addition of Mr. Werne's Subject to the Other Business Portion of the Meeting; second by Mr. Cullen. Roll Call Vote Taken. Voting Yes – Chester Hannah, John F. Werne III, James Atkins, Roger Hamiter, Mark Jarrell, Tom Cullen and Tonnie Trotter; Voting No – None; Absent – Bobby Hackett and Perry Keenan. Motion Passed; Agenda for Tonight's Meeting Approved as Presented and Circulated with the Addition of Mr. Werne's Subject to the Other Business Portion of the Meeting.**

Public Forum

Chairman Jarrell opened the floor up to the public for any subject not on tonight's agenda. No one spoke or commented so Chairman Jarrell closed the public forum at 6:07 p.m..

Agenda Items To Be Heard:

1. Ms. Charlene Notgrass, requesting a Zone Change from R-1 to C-1 to match existing zoning of other corners at intersection of Hwy. 49 and Old Clarksville Pike. Property is located at 1981 Hwy. 49E, Pleasant View, TN; Map 19, Parcel 28.00. Property is in the 3rd voting district and is not in a flood area.
2. Mr. Bert Bomas, requesting a Zone Change from Agriculture/Commercial B to C-2 to comply with current zoning resolutions for Mr. Bomas to be able to construct a bait shop. Property is located at 582 Chapmansboro Road, Ashland City, TN; Map 48, Parcel 9.01. Property is in the 4th voting district and is in the AE flood area.
3. Mr. Don Hyde, requesting a Zone Change from Agriculture to C-3. Applicant will be removing the existing structure to replace it with a new structure in order to manufacture and sell sausage at retail. Applicant may also add a deli in the future. Property is located on Lockertsville Road, Ashland City, TN; Map 44, Parcel 15.00. Property is in the 4th voting district and is not in a flood area.

ITEM #1: Chairman Jarrell read the item into the record. Brett Smith presented his review comments per the hand-outs he provided to the members. He explained that this property is in the Planned Growth Area for the County, all properties on the other three corners of this intersection are currently zoned C-1 within the Town of Pleasant View's jurisdiction and the property south of it is zoned C-PUD. He further explained that the proposed C-1 zone would be in keeping with recommended commercial zones for this growth area. He pointed out that Sycamore High School and Middle School borders this property at the rear on the west. Mr. Werne asked about the status of the TDOT improvement of the intersection. Director Atkins responded that it is currently in the process of being sent out for construction bids, but how soon is uncertain. Chairman Jarrell opened the floor to public forum on this item. The applicant, Ms. Notgrass, spoke. She explained who she was and wished to rezone the property to increase it's value in anticipation of selling the property.

***Motion* made by Mr. Werne to recommend approval of this zone change request from R-1 to C-1 to the Cheatham County Commission; second by Mr. Atkins. Mr. Smith stated that this is just a recommendation to the County Commission. Roll Call Vote Taken by Chairman Jarrell. Voting Yes – Chester Hannah, John F. Werne III, Roger Hamiter, Mark Jarrell, Tom Cullen, James Atkins and Tonnie Trotter; Voting No – None; Absent – Bobby Hackett and Perry Keenan. Motion Passed; Recommended approval of this zone change request to the Cheatham County Commission by a vote of 7-yes, 0-no, 2-absent.**

Item #2: Chairman Jarrell read the item into the record. Brett Smith presented his review findings as per the hand-outs he provided to the members. Mr. Smith, Director Atkins and County Attorney Alan Johnson explained that 0.31 of this property received a zone change to Commercial B in May of 1989 under the previous Cheatham County Zoning Resolution and no legislative actions have taken place to change such since that time. He continued by saying that rezoning was done prior to the signing and recording of the plat that created the 20,000 square foot (0.46 acre) lot upon which this Commercial B zone exists; said plat was created and recorded in 1992 without approval from the Planning Commission due to a tie vote. The 20,000 square foot lot was allowed to have a commercial store that evolved into a place where on-site drinking took place and a nuisance. At the April 7, 2011 Planning Commission meeting, the Planning Commission formally approved the 1992 plat that created the 20,000 square foot lot upon legal council from the County Attorney at that time, Mr. Bill Herbert. It was presented to the members that their task is two-fold: 1. Classify the 0.31 acre portion of the lot that is currently Commercial B with a Commercial zoning classification under Cheatham County's current Zoning Resolution that the Planning Commission deems most equivalent to the old Commercial B classification as a map correction. 2. Consider the possible rezoning of the rest of the 20,000 square foot lot to match the result of #1 or provide the applicant some other option such as a C-PUD for the entire lot. Chairman Jarrell opened the floor up to public forum for this item. Ms. Tvaroch spoke in opposition to this item. She said she lives next door and rents from the owner Mr. Keith Davidson. She explained the history of the old store and the problems she remembered from alcohol use by boaters from across the road in the Cumberland River and bikers patronizing the old store when it was operating and the old building is very close to their home. She said she has been mowing the back yard to keep it from growing up more than it did. Mr. Tvaroch spoke to say that his wife's concern is that it becomes the problem that it once was again. Brett Smith explained that there would be buffer requirements to be met per a future site plan submittal. Mr. Keith Davidson, owner of the Tvaroch's home, spoke in opposition as well. Mr. Odom, 508 Chapmansboro Road, spoke in opposition to this item. He said he lives just down the road and remembers bikes drag-racing from the store when it was operating. Mr. Odom mentioned a petition signed by many neighbors in opposition to a rezoning of this property. Director Atkins confirmed such a petition, but stated that many of those listed on said petition have told him recently that they did not sign it and it is an old petition and not current. Several members of the audience responded incoherently. Mr. Odom stated he didn't know, but he knew he signed it. Mr. Odom asked about the structure being substantially damaged. Director Atkins explained the assessment process for flood damage and that this structure will have to be repaired to the flood code due to it being over 50% damaged from the 2010 flood and years of abandonment. Mr. Odom concluded by stating his concerns over his property's value being affected and drunken boaters coming from the Cumberland River to the store. Mr. Bert Bomas, the applicant, spoke. He stated he lives on Bobbitt Road and used to own P.M. Lighting in Ashland City. He said that the property has been cleaned up and is in a much better condition. He presented pictures of the property before and after cleaning it up. Ms. Nora Hilton spoke in favor of the rezoning. She stated she knows Mr. Bomas

will run a reputable establishment and not allow any of the conditions to exist that led to the problems with the previous owner. She said she understood the neighbors' concerns, but we should give Mr. Bomas a chance. Ms. Trotter stated she lived in the area about six years ago and wondered if another dock would be constructed in that area. Director Atkins answered such a possibility was up to the Corps of Engineers. Someone from the crowd stated that the old dock was removed by the Corps of Engineers some time ago. Discussion of the existing Commercial B zoning of the lot took place and what such allows. Attorney Johnson stated that C-2 seemed to be most similar to the old Commercial B. Director Atkins read the Commercial B description from the old zoning resolution and the C-2 description from the current zoning resolution. Mr. Cullen stated that it appeared C-2 was the most appropriate equivalent classification and a bait shop would be a use that falls under that classification as well. Chairman Jarrell closed public forum. Discussion was had concerning the applicant's options of use for the property.

***Motion* made by Mr. Werne to designate the existing 0.31 acre portion of the parcel currently zoned Commercial B to be zoned C-2 in accordance with the extents shown on the parcel's 1992 final plat; second by Mr. Atkins. It was determined this act does not require Cheatham County Commission action. Roll Call Vote Taken by Chairman Jarrell. Voting Yes – Chester Hannah, John F. Werne III, Roger Hamiter, Mark Jarrell, Tom Cullen, James Atkins and Tonnie Trotter; Voting No – None; Absent – Bobby Hackett and Perry Keenan. Motion Passed; The existing 0.31 acres currently zoned Commercial B was designated to be classified as C-2 by a vote of 7-yes, 0-no, 2-absent.**

The issue of rezoning the remaining portion of the property was then taken up by the Planning Commission. Chairman Jarrell explained what the issue before the Planning Commission now. Chairman Jarrell considered opening the floor up to public forum again, but no one had any further commentary so he decided not to do so. Director Atkins explained that the Planning Commission's previous motion designated the 0.31 acres zoned Commercial B as C-2 in accordance with the current zoning resolution and now the issue at hand is to consider any zone change to the remainder of the 0.46 acre lot (i.e. the remaining 0.15 acres or 6,500 square feet) from its current zoning of Agriculture. Brett Smith concurred and further explained such. Mr. Hannah asked if the existing structure will have to be torn down. Director Atkins responded that it may or may not due to the possible need for Board of Zoning Appeals variances due to setback and fire hydrant issues and the need to meet Floodplain construction requirements.

Motion made by Mr. Atkins to recommend approval of rezoning the remaining portion of the subject parcel from Agriculture to C-2 to the Cheatham County Commission; second by Mr. Cullen. Roll Call Vote Taken by Chairman Jarrell. Voting Yes – Tom Cullen, John F. Werne III, Tonnie Trotter and James Atkins; Voting No – Roger Hamiter, Chester Hannah and Mark Jarrell; Absent – Bobby Hackett and Perry Keenan. Motion failed to pass due to a lack of a majority of total membership in favor of motion by a vote of 4-yes, 3-no, 2-absent. Item goes to the Cheatham County Commission for consideration without a favorable recommendation.

Item #3: Chairman Jarrell read the item into the record. Brett Smith presented his findings per the hand-outs he provided to the members. Brett Smith's concerns about this rezone centered around spot-zoning and the increased traffic on such a rural road as Lockertsville Road. Chairman Jarrell opened the floor to public forum. Don Hyde, the applicant, spoke. Mr. Hyde stated he only wants to demolish the existing structure, build a new barn-type structure with facilities to process meat into sausage, etc. for him to take orders to sell, but not deli or dining establishment. He asked if he could get a refund. Director Atkins told him no, but the Planning Commission could override him. It was determined that for what he intends to use the new structure at this time per his testimony, it requires no rezone action on the property at this time. It was agreed to give him a \$110.00 credit toward the purchase of his building permit for the new, replacement structure. Chairman Jarrell asked Mr. Hyde if he understood him correctly in that he no longer wishes to pursue a deli at this time, only to make sausage. Mr. Hyde said yes. Mr. Cullen asked Mr. Hyde if he was going to be slaughtering animals. Mr. Hyde said for his own use, yes, but otherwise he would have them slaughtered elsewhere. Mr. Hyde asked to have his rezone request withdrawn. Discussion took place concerning how Mr. Hyde might be able to sell his sausage in accordance with his rights under an agricultural zone classification and the Right to Farm Act. Mr. Hamiter asked if Mr. Hyde can do what he specifically wants to do legally. Attorney Alan Johnson summarized a current case being heard by the Tennessee Supreme Court concerning the interpretation of the Right to Farm Act. Attorney Johnson concluded by saying if Mr. Hyde wishes to manufacture his sausage or similar farm products for sale by taking orders, he is good to go. Chairman Jarrell pointed out that the salient point of division is whether the farm product is cooked before sale or not. Everyone came to such an agreement. No motion necessary due to the request being withdrawn by the applicant.

Other Business:

Discussion took place concerning lots of record on old, unrecorded plats and off private roads without public road frontage. It was determined that such situations were to be handled on a case-by-case basis, but, in general, just because a roadway is not a county maintained public road does not mean it is not a public way.

Having no further business, ****motion**** was made to adjourn the meeting by Mr. Werne; second by Mr. Atkins. Voice vote carried unanimously by all present.

**JAMES ATKINS – SECRETARY
CHEATHAM COUNTY PLANNING COMMISSION**